

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

### **REGULAR MEETING**

#### **MINUTES**

Town Commission Meeting Room

**4501 Ocean Drive**

**Tuesday, February 24, 2009**

**7:00 P.M.**

#### **1. CALL TO ORDER, MAYOR ROSEANN MINNET**

Mayor Roseann Minnet called the meeting to order at 7:00 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Ann Clotey were present. Also present were Town Attorney Daniel L. Abbott, Town Manager Esther Colon, Town Clerk June White, and Senior Office Specialist Nekisha Smith.

#### **2. PLEDGE OF ALLEGIANCE TO THE FLAG**

#### **3. INVOCATION**

George Hunsaker gave the invocation.

Mayor Minnet explained there were some changes to the agenda. She verified that everyone received the memorandum regarding draft Ordinances 2009-06 and 2009-03 that were updated.

Mayor Minnet added the Valet Parking item as Old Business item 15d. Commissioner Dodd made a motion to table the Valet Parking item to the March 10, 2009 Commission meeting as the business owners were attending the "Taste of the Beach" event. Mayor Minnet wanted to wait to table the item until it came up for consideration. Commissioner Silverstone seconded the motion. Mayor Minnet asked Attorney Abbott what their options were. Attorney Abbott said if the Mayor recognized the motion it could be tabled. Mayor Minnet wanted to go through the items first and would entertain the motion afterwards. Commissioner Dodd withdrew his motion. Commissioner Silverstone withdrew his second.

At Commissioner Clotey's request Mayor Minnet pulled New Business item 16b for placement on the March 10, 2009 Commission meeting agenda. There were no objections.

Mayor Minnet stated that Manager Colon had requested that once the Commercial Boulevard Pavilion Change Order was considered that it would be placed under Consent Agenda as item 12f. There were no objections.

Mayor Minnet entertained the motion to table Old Business item 15d Valet Parking. Commissioner Dodd made a motion to table the Valet Parking item to the March 10, 2009 Commission meeting. Commissioner Silverstone seconded the motion. The motion carried 5-0.

#### **4. PRESENTATIONS**

**a. Presentation of this season's LBTS VFD Youth Basketball Team (Commissioner Silverstone)**

Commissioner Silverstone gave praise to Coach Ed aka Deputy Ed Eason. Commissioner Silverstone introduced the basketball team members and thanked Chief Gooding for getting Coach Ed to volunteer.

Mayor Minnet gave a round of applause to Commissioner Silverstone for all he had done with the Youth Basketball Team.

**b. Comprehensive Annual Financial Report (Rachlin, LLP)**

Jerry Chiocca of Rachlin, LLP briefly summarized the report. Mr. Chiocca reported that total assets of the Town were almost \$46.5 million; the liabilities were almost \$9 million; and the net assets were over \$37.5 million. He added that \$12 million had been reserved for Emergency Vehicle Reserve and Capital Asset with approximately \$7 million undesignated and reserved. In closing, Mr. Chiocca stated that the Town of Lauderdale-By-The-Sea was dealing very well with the economy. Mr. Rachlin said it was a pleasure working with Finance Director Kaola King.

Commissioner Silverstone asked for a comparison to other Cities/Towns. Mr. Rachlin rated the Town of Lauderdale-By-The-Sea at 9 1/2. He stated he never gave anyone a 10. Mr. Chiocca said that out of 25 Cities/Towns only 5 were rated as average and 3 other Cities were rated at the same level as the Town of Lauderdale-By-The-Sea.

Vice Mayor McIntee made a motion to accept the report. Commissioner Silverstone seconded the motion. The motion carried 5-0.

#### **5. REPORTS**

**a. Finance and Budget Monthly Report - January 2009 (Manager Colon)**

Commissioner Silverstone made a motion to accept the report Commissioner Clotney seconded the motion. The motion carried 5-0.

**b. Development Services Monthly Report - January 2009 (Assistant Town Manager Olinzock)**

Commissioner Dodd wanted to know where the unapproved news rack was located. He was concerned that there may be another one. Assistant Town Manager Olinzock said he would get the exact location.

Commissioner Silverstone made a motion to accept the report. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

**c. Municipal Services Monthly Report - January 2009 (Assistant Town Manager Olinzock)**

Commissioner Silverstone made a motion to accept the report. Commissioner Clotey seconded the motion. The motion carried 5-0.

**d. BSO Police Monthly Report - January 2009 (Chief Gooding)**

Vice Mayor McIntee asked Chief Gooding if there were any new burglaries in Town. Chief Gooding said there was one in the Bel Air area.

Commissioner Dodd asked Chief Gooding whether it was necessary to have questions presented to him 24 hours in advance of the meeting. Chief Gooding said it was not. Commissioner Silverstone asked whether the victim that caused the fire was caught. Chief Gooding said he was.

Chief Gooding introduced LT. Angelo Cedenio who had been with the Sheriff's Office since 1999. Lt. Cedenio said it was a pleasure to be in Lauderdale-By-The-Sea. He said he previously worked in the drug task force unit and worked hand in hand with the FBI.

Commissioner Clotey asked whether slingers would be handed out. Chief Gooding said he believed there was a misunderstanding as they would not be handed out.

Commissioner Silverstone made a motion to accept the report. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

**e. VFD Fire Monthly Report - January 2009 (Chief Perkins)**

Commissioner Dodd questioned the average response time. He wanted to know whether they were the full response times from the time of the 911 call to a vehicle responding on the scene. Chief Perkins said it was the full response time. Commissioner Dodd wanted to know how many vehicles responded. Chief Perkins said 1 truck and possibly one other vehicle. Commissioner Dodd asked whether Vice Mayor McIntee went into the building that was on fire. Chief Perkins explained that Vice Mayor McIntee saw flames and broke the window from the outside and fought the fire from outside with a hose. Commissioner Dodd stated that on January 2, 2009 16 fire

fighters turned up at the fire station for allergic reactions to jelly fish stings. He wanted to know if the fire fighters were paid for the call out and their arrival at the station. Chief Perkins said if they were an in town member and arrived at the station within a certain period of time they received \$10.

Commissioner Dodd preferred that the VFD respond to medical calls only when services were needed. Chief Perkins stated that if it were a matter of safety he would prefer a vehicle go. Commissioner Dodd suggested that if fire fighters did not show up for non-emergency medical calls to use that money and pay the volunteers for their ATV duties and they could serve the public without risking public safety. Commissioner Dodd asked Chief Perkins to categorize the 911 calls. He felt that jelly fish stings was not something the VFD needed to respond to but traffic and other categories was. Chief Perkins said they make decisions not to respond when calls are made such as earaches.

Commissioner Silverstone asked for clarification as to whether anyone was paid for responding to medical calls. Chief Perkins said not everyone was paid; they signed up for credit. He added that the new guys used it as training. Commissioner Silverstone asked whether the VFD was actually needed on the call. Chief Perkins said he did not know until they got there.

Commissioner Clotey was concerned that the VFD may run out of money if they pay the volunteers to go on these calls. Chief Perkins said it would not happen, but if it did he would see it coming and put a stop to it. Commissioner Clotey asked whether Chief Perkins would provide swimming lessons and preferred that the Chief charge a user fee.

Vice Mayor McIntee asked Fire Inspector Steve Paine to which calls the City of Ft. Lauderdale Fire Department responded to. Inspector Paine said their medical responded to everything and anything including car wrecks, suicides and other medical calls. He added they respond with a Rescue truck and an engine. Vice Mayor McIntee asked where an ambulance would bring an emergency call. Inspector Paine replied that the City of Pompano Beach and the City of Ft. Lauderdale serviced approximately 30,000 people. He added that their ambulances come straight down Commercial Boulevard to Holy Cross Hospital. Inspector Paine stated that the VFD averaged about 3.5 calls a day and serviced 5,000 people.

Mayor Minnet asked Inspector Paine how his inspections had gone on the Condominiums. Inspector Paine said he had met with 14 different managers where he explained the process to them.

Commissioner Silverstone made a motion to accept the report. Commissioner Clotey seconded the motion. The motion carried 5-0.

f. AMR Fire Rescue Monthly Report - January 2009 (Operations Manager Liddle)

Vice Mayor McIntee asked Operations Manager Liddle for the average running times. Operations Manager Liddle said it was less than 4 minutes. He explained that the goal was to respond under 8 minutes and the overall average was 6 minutes. Vice Mayor McIntee congratulated him for being 30% below the goal and 100% below the state wide average.

Commissioner Clotey asked Operations Manager Liddle what percentage of their calls should have gone to a private physician. Operations Manager Liddle believed that statistically it was between 1 and 2%. He added that the majority of the transports from Lauderdale-By-The-Sea were life saving transports.

Commissioner Dodd thought response times depended on the whereabouts of the ambulance. He thought AMR was doing a better job than BSO did and based that decision on the fact that AMR is based in Town.

Commissioner Silverstone made a motion to accept the report. Commissioner Dodd seconded the motion. The motion carried 5-0.

6. PUBLIC SAFETY DISCUSSION

7. TOWN MANAGER REPORT

a. Commercial Boulevard Beach Pavilion - Change Order

Manager Colon said that additional receptacles at the Commercial Boulevard Beach Pavilion were needed and that the median reduction was not part of the plan. She explained that both items were included in the Change Order along with the permits and the notice from the State. Manager Colon asked for Commission approval during the consent agenda.

Commissioner Dodd could not make a decision when he received the information at 5:00 p.m. on the night of the meeting. He wanted to table the item.

Manager Colon said she had met with the Architects on Monday; the previous day. She explained that the plan was part of the RFP package and there were no changes to that plan. Manager Colon said her outline clearly explained what was included in the Change Order. She said the contractor was getting ready to pave and asked whether she should stop the job or allow them to proceed and save the additional costs and additional delays. Commissioner Dodd had no desire to stop the project or desired to incur additional expenses.

Commissioner Clotey said she brought this to the Town Manager's attention because both her and Commission Dodd chaired the 4th of July event and found out how much the electrician charged to put up electrical boards and take them down again. She

contacted Manager Colon to make sure there were enough outlets in the Pavilion for Town events. She said Manager Colon had the architects look at the plan and it was determined that more outlets were needed. Commissioner Clotney said it was only a few thousand dollars right now and if the Commission wanted to wait it would cost a lot more.

Commissioner Clotney believed it was cheaper to do the roundabout now than it would be to pull up pavers and do it over. She did not think it was wise to stall the contractor and inconvenience the businesses any longer than necessary.

Commissioner Dodd was not upset with the Town Manager for bringing it to the attention of the Commission at this late moment. He wanted to know who did the electrical review and messed up. He said he was trying to keep this from happening again.

Mayor Minnet clarified that the electrical proposal originally was provided with 4 outlets. She said it was recently determined that more were needed. She also clarified that staff was aware of the need for the median cut back but felt it would be best for the company that constructed the Pavilion to do it rather than the Town do it after completion of the project as it would be cost effective.

Commissioner Silverstone said the buck stopped here. He said the plans came before the Commission for review and approval. Commissioner Silverstone pointed out there was no one to blame for missing the outlets except for the Commission. Commissioner Clotney did not think it would be a good thing to hold up construction.

Commissioner Dodd thought it would be fair to leave the fishing pier car park open so that they could get in and out of the alley.

Commissioner Dodd made a motion to move the Commercial Boulevard Beach Pavilion Change Order to the Consent Agenda as item 12f. Commissioner Clotney seconded the motion. The motion carried 5-0.

## **8. APPROVAL OF MINUTES**

### **a. January 22, 2009 continued from January 13, 2009 Regular Meeting**

Commissioner Silverstone made a motion to approve the minutes of January 22, 2009 with changes. Commissioner Clotney seconded the motion. The motion carried 5-0.

### **b. January 27, 2009 Regular Meeting**

Commissioner Silverstone made a motion to approve the minutes of January 27, 2009. Commissioner Clotney seconded the motion. The motion carried 5-0.

c. January 28, 2009 continued from January 27, 2009 Regular Meeting

Commissioner Dodd made a motion to approve the minutes of January 28, 2009 with changes. Commissioner Clotey seconded the motion. The motion carried 5-0.

d. February 3, 2009 Commission Conference

Commissioner Silverstone made a motion to approve the minutes of February 3, 2009 Commission Conference. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

Mayor Minnet recessed the meeting at 8:30 p.m. and reconvened at 8:40 p.m.

9. PUBLIC COMMENTS

Bob Fleishman thought the Commission should do their own homework before putting things on the agenda.

Renee O'Neal asked the Commission not to remove resident parking on the beach.

Patrick Pointu believed procedures and policy should be followed by everyone.

Louis Marchelos wanted to know who paid for the gas while a fire fighter drove his vehicle around town to make inspections.

Vice Mayor McIntee made a motion to allow Ms. McIntee to speak. Mayor Minnet would not recognize the request. Vice Mayor McIntee made a motion to overrule the chair. Commissioner Silverstone seconded the motion.

Commissioner Clotey asked Attorney Abbott whether he believed what was said was offensive enough as the Commission had determined that if someone was offensive that the person offended would be allowed the opportunity to defend him/herself. Attorney Abbott stated that the issue was not a 1st Amendment issue. He stated that the Commission could chose to recognize or not to recognize pending their rules of procedure during Public Comments.

Commissioner Clotey asked whether Ms. McIntee signed up for public comments. Senior Office Specialist Smith stated she did not. Commissioner Dodd believed the Commission decided that the right to defend oneself was granted if defamatory comments were between a Commissioner and a public speaker. He pointed out that the decision had nothing to do with defamatory comments between two residents. Vice Mayor McIntee believed that everyone should have a right to speak.

The motion failed 3-2. Commissioner Dodd, Mayor Minnet and Commissioner Clotey voted no.

Charles Leachman found it difficult to merge resident parking with beach parking. He asked the Commission to leave the permits for beach parking alone. Mr. Leachman believed that the public did not understand what those spaces were for and therefore continued to get tickets.

Michael Power did not want the Commission to differentiate between the northern and southern parts of Town.

Spiro Marchelos requested the pier access be opened quickly.

Mark Steffine yielded his time to Maureen McIntee. Ms. McIntee said she was accused of disturbing the assembly with noises. She stated that she did not. Ms. McIntee explained that she had moved from her seat due to the derogatory comments the Marchelos' were saying. Ms. McIntee indicated that Marc Furth was her witness.

Lauren Galgano spoke on behalf of Mr. Rupp. She said that Code Enforcement had called her regarding her septic and she took full responsibility. She asked if Mr. Rupp could have his money back.

Joe Couriel thought the Town should reclaim the swales to beautify the Town. He remembered that residents paid \$5 for resident permit parking. Mr. Couriel did not believe there were enough disabled spots by the beach. He asked the Commission to protect the beach parking permits.

Ben Freeny knew the swales were Town property. He was confused that after 6 1/2 years, Code Enforcement never approached him about his swale.

Mayor Minnet turned down a request to allow someone to speak who was signed in by someone else. She wanted to move the meeting forward.

Commissioner Dodd made a motion to overrule the chair. He believed the Commission previously voted to allow it. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

Yann Brandt asked the Commission to move forward with an Advisory Council.

## **10. ORDINANCES**

### **1. Ordinances 1st Reading - "Public Comments"**

- a. Ordinance 2009-06: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, CREATING SECTION 17-16 OF THE CODE OF ORDINANCES TO PROVIDE A DEFINITION OF SWALES, TO IMPOSE THE REPONSIBILITY FOR MAINTAINING SWALES ON THE ADJOINING PROPERTY OWNER OR OWNERS, AND TO REGULATE THE ITEMS THAT MAY BE PLACED OR PLANTED**



IN SWALE AREAS; PROVIDING FOR SEVERABILITY; CODIFICATION;  
AND AN EFFECTIVE DATE (Tabled on 1st reading at the January 27,  
2008 Commission meeting by Commissioner Dodd)

Attorney Abbott read Ordinance 2009-06 by title.

Mayor Minnet opened the meeting for public comments. Joe Couriel said it was important to reclaim the swales and to beautify the Town as there were unsightly swales all over town.

Barbara Cole thought that paved swales were to be taken back and made green.

Ben Freeny thought the swales were illegally done.

With no one else wishing to speak, Mayor Minnet closed the meeting for public comments.

Vice Mayor McIntee asked whether a street address sign could be placed in the swale. Assistant Town Manager Olinzock said it would have to be placed on the building. Vice Mayor McIntee wanted to know if it could be put in the swale. Assistant Town Manager Olinzock said he would research it.

Commissioner Dodd was concerned that environmental issues that the Commission had previously discussed had not been included in the Ordinance. Commissioner Silverstone wanted to know if Ordinance 2009-06 would remove the current paved areas. Assistant Town Manager Olinzock stated that current law indicated they were not allowed to pave a swale area. Manager Colon agreed and added that there were a lot of illegal paving in the swales. She believed it was the desire of the Commission that existing legal conforming driveways would be admissible and the illegal driveways would be removed.

Commissioner Dodd made a motion to adopt Ordinance 2009-06 on first reading. Commissioner Clotey seconded the motion. The motion carried 4-1. Mayor Minnet voted no.

- b. Ordinance 2009-17: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, CREATING SECTION 5-62 OF THE CODE OF ORDINANCES AND AMENDING SECTION 19-21 OF THE CODE OF ORDINANCES TO PROHIBIT THE USE OF TARPS OR OTHER NON-CUSTOM FIT BOAT COVERS IN THE COVERING OF BOATS; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE

Attorney Abbott read Ordinance 2009-17 by title.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the meeting for public comments.

Mayor Minnet questioned whether there was a time frame before they had to be covered. Manager Colon asked Commissioner Dodd if it was 90 days. Commissioner Dodd confirmed. Attorney Abbott stated he would make the modification to allow 90 days to comply.

Commissioner Dodd made a motion to adopt Ordinance 2009-17 on first reading as modified. Commissioner Silverstone seconded the motion. The motion carried 4-1. Vice Mayor McIntee voted no.

**2. Ordinances 2nd Reading - "PUBLIC HEARING"**

- a. Ordinance 2009-03: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY THE SEA, FLORIDA, AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES BY AMENDING SECTION 15-51 OF THE CODE OF ORDINANCES TO PROVIDE A DEFINITION OF "FALSE ALARM"; AND AMENDING SECTION 15-55 OF THE CODE OF ORDINANCES TO ESTABLISH A SERVICE FEE FOR EXCESSIVE FALSE ALARMS; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE (Tabled on 2nd reading at the January 27, 2009 Commission meeting by Commissioner Dodd)**

Attorney Abbott read Ordinance 2009-03 by title only.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the meeting to public comments.

Commissioner Dodd referred to page 5 Section 15-55 under Section a, Article 3 that the alarm user shall pay a service charge of \$50. He wanted to know why there was no backup. Mayor Minnet stated there was a memorandum that was submitted at the beginning of the meeting that showed that change. Attorney Abbott explained that Commissioner Dodd was looking at the Ordinance that was contained in the back up and that the corrected Ordinance, submitted at the beginning of the meeting, showed the cross-outs pertaining to the correction. Commissioner Dodd accepted the explanation.

Mayor Minnet asked for a motion to accept Ordinance 2009-03 as the memorandum read.

Commissioner Silverstone made a motion to adopt Ordinance 2009-03 on second reading. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

- b. Ordinance 2009-08: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY- THE- SEA, FLORIDA, AMENDING SECTION 19-21 OF THE CODE OF ORDINANCES TO AMEND THE VESSEL PARKING AND STORAGE REGULATIONS FOR THOSE PROPERTIES THAT WERE ANNEXED INTO THE TOWN IN 2001, FOR SO LONG AS OWNERSHIP OF SAID PROPERTIES DOES NOT CHANGE; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE (Approved 1st reading on at the January 27, 2009 Commission meeting)

Attorney Abbott read Ordinance 2009-08 by title.

Mayor Minnet opened the meeting for public comments.

Mar Jo Lexa thanked the Commission for passing the amendment to Ordinance 2009-08 on 1st reading at the previous meeting. She believed the Town should unify the code and implement the code in regards to public safety operational and hazardous issues rather than address codes that mandate different opinions on "taste".

Bill Hart had his boat for the whole time he lived there.

Richard Capalbo had a boat in his driveway since 2003.

Kevin Cahaw supported the allowance of boats.

Debbie Cahaw owned a boat for 18 years and wanted to keep her boat in her front yard as she had been.

Commissioner Clotley asked to allow the president of the Bel Air Civic Association extra time.

Edmond Malkoon said his Board voted an opinion poll. He added that there were 27 renters and that 13 homeowners changed their vote as they did not understand it as it was written. Mr. Malkoon stated that he had 144 responses; 44 were in favor of trailers and 2 were in favor with restrictions. Mr. Malkoon read his survey as requested by Commissioner Clotley. Mr. Malkoon handed the survey to Clerk White.

Mr. Malkoon gave his personal opinion. He said the annexation was not a legal document and that boats and trailers were not allowed in the front of homes at Los Olas. Mr. Malkoon believed that Lauderdale-By-The-Sea was one town and should have one code. He requested that the Commission vote no on 2nd reading of the Ordinance with no modification.

Dave Saindon indicated that some people wanted to change their votes on the petition prior to the meeting. He believed water craft did not belong in front of a home; they belonged in a marina.

Vito Chiarello backed up Mr. Malkoon with an additional 60 names against boats and trailers. He added that a lot of people did not want to sign as they did not want a problem with their neighbor. Mr. Chiarello handed the petition to Clerk White.

With no one else wishing to speak, Mayor Minnet closed the meeting for public comments.

Commissioner Silverstone believed Bel Air already conformed to the present Code. He felt that if the majority of the people wanted this to be effective then the Commission should listen to the people and vote effectively. However, Commissioner Silverstone believed there was a concern over property values and the majority of the people wanted to protect their property value.

Vice Mayor McIntee asked the Commission to allow Ms. Lexa to speak. Mayor Minnet refused additional public comments as it had already been closed. After brief discussion Mayor Minnet opened the meeting for additional public comments.

Mary Jo Lexa believed the Commission should compare the signatures on the petitions.

Debra Werner lived at her home for over 27 years. She said when she signed her neighbors petition she said she would support it if it was within code standards. Ms. Werner wanted one town with one code.

Michael Bower said that Ms. Werner did not read the petition. Mr. Bower wanted to know who was going to monitor the boat issue.

Charles Leichman did not understand why some people hate boats.

Mark Steffine said he was trying to sell his home and people questioned the pop up trailers.

With no one else wishing to speak, Mayor Minnet closed the meeting to public comments.

Commissioner Dodd said the Ordinance had huge changes which include the words RV's and guests. He wanted to go back to the Ordinance as it was. Commissioner Dodd did not intend to allow a guest use someone's driveway to park their RV there and it was never intended for air boats. He wanted to do away with the word "guests" in line 43.

Vice Mayor McIntee thought it was down the middle. He believed that there were 7 or 8 boat owners in Bel Air at the time of annexation. He said if they could show they owned their boat at that time they should be allowed to keep them. He made a motion to table for 60 days or until May, 2009. The motion failed for lack of a second.

Commissioner Clotey wanted to know how someone was going to prove that they owned their boat at annexation. She said boats should not be parked in front of houses; they do bring down property values and to ignore 200 people who signed a petition was wrong.

Commissioner Dodd believed taking away someone's rights was wrong and wanted the original Ordinance back and to go back to 2001. He felt a person had the right on that date and that right should not be taken away.

Mayor Minnet stated that the Commission did not hate boats. They believed they should be in an enclosure and not in the driveway. Mayor Minnet believed Lauderdale-By-The-Sea was one town and should have one code.

Commissioner Dodd made a motion approve Ordinance 2009-08 with the deletion of the word "guests" out of line 43 and include date of annexation. The motion failed for lack of a second.

Attorney Abbott stated that the Commission could move on and the Ordinance that was on the books would remain. He added that if the Commission wanted to change the Ordinance that was on the books and it was an amended Ordinance would have to go back to 1st reading.

Commissioner Silverstone did not believe this was within what they spoke about. He said the Ordinance did not address the identification of the people who had their boats at annexation only. Mayor Minnet said that the Ordinance was at annexation only and then the public spoke and the Ordinance was changed to the current one. She said she was hearing that the Commission wanted to go back to the original Ordinance at annexation only.

Vice Mayor McIntee was only concerned with a boat on top of a trailer. He only wanted to protect the 7 or 8 people that had their boats since annexation. Vice Mayor McIntee added that proof of ownership could be obtained as the boats should be registered.

Commissioner Silverstone made motion to move Ordinance 2009-08 on 1st reading that would amend the Ordinance to grandfather in those owners of vessels, who owned the vessels at the time of annexation. Commissioner Dodd seconded the motion. Commissioner Clotey wanted to know whether the renters could keep their boat. Commissioner Dodd stated that the Ordinance only applied to owners.

Attorney Abbott clarified the motion as to move the Ordinance on first reading that would change the regulation for storage of vessels on land in the annexed area as to provide for those owners only in the annexed area that owned their boats at the time of annexation and continuously throughout would be allowed to continue to keep their boats trailored unless they sell their property and otherwise cease to be the owner of the property. Commissioner Dodd asked whether it applied to boats on a trailer. Attorney Abbott said it did.

Commissioner Silverstone made a motion to adopt Ordinance 2009-08 on first reading as amended to change regulations to allow property owners who owned their boat at time of annexation and continuously throughout, to keep their boats on a trailer on their property. Commissioner Dodd seconded the motion. The motion carried 3-2. Mayor Minnet voted no. Commissioner Clotey voted no.

- c. Ordinance 2009-09: AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, CREATING SECTION 5-61 OF THE CODE OF ORDINANCES TO BE ENTITLED "INOPERABLE BOATS AND BOATS UNDER REPAIR" TO PROHIBIT BOATS THAT ARE INOPERABLE OR UNDER REPAIR FOR MORE THAN 90 DAYS FROM REMAINING IN THE JURISDICTION OF THE TOWN, EXCEPT FOR AT A LICENSED MARINE FACILITY; PROVIDING FOR SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE (Approved 1st reading as amended on at the January 27, 2009 Commission meeting)

Attorney Abbott read Ordinance 2009-09 by title.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the meeting to public comments.

Commissioner Silverstone wanted to know if this included all boats including people who did not own their house. Commissioner Dodd said it did.

Commissioner Clotey asked whether someone could bring in a boat for 90 days and get around Ordinance 2009-08. Attorney Abbott said they could not.

Commissioner Dodd made a motion to adopt Ordinance 2009-09 on second reading. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

## **11. COMMISSIONER COMMENTS**

## **12. CONSENT AGENDA**

Consent item 12d was pulled for discussion.

Consent item 12f was added to the Consent Agenda earlier in the evening.

Vice Mayor McIntee made a motion to approve items 12a, 12b, 12c, 12e, and 12f on consent. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- a. Commission approval of revised seating layout for sidewalk café - Aruba Beach Café, 1 Commercial Blvd (Assistant Town Manager Olinzock)

- b.** Commission approval of Special Event application for Easter By-The-Sea 2009, a Town sponsored event, Saturday, April 11, 2009, 8:30 AM till 1:00 PM (Assistant Town Manager Olinzock)
- c.** Commission approval of Special Event application for Walk Against Hunger 2009, Sunday, March 1, 2009, 8:00AM till 10:30 AM, Waiving the 60 Day submission requirement, refunding the \$100.00 application fee. (Assistant Town Manager Olinzock)
- d.** Sanitary Sewer Repair Phase I – TeleVac \$14,795 piggybacking the City of Sunrise Contract # (06) c-40-a-c (Assistant Town Manager Olinzock)

Mayor Minnet asked whether the Town could go out to bid and get better pricing. Manager Colon said if the Town had to obtain bids it would not get done in 2009. She was confident that this was the best price.

Vice Mayor McIntee made a motion to accept the bid. Commissioner Dodd seconded the motion. The motion carried 5-0.

- e.** Emergency Electrical Repair-Police Department - \$3,866.75. (Assistant Town Manager Olinzock)
- f.** Beach Pavilion Change Order (Manager Colon) – added during Town Manager Report for approval on consent.

Vice Mayor McIntee made a motion to recess the remaining items. Mayor Minnet recessed the meeting at 10:55 p.m. to February 25, 2009 at 2:00 p.m.

**13. RESOLUTION - "Public Comments"**

- a.** Resolution 2009-04: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING FIRE RESCUE AND SAFETY SERVICE FEES BY DECREASING BY 10% THE PERIODIC/ANNUAL FIRE SAFETY INSPECTION FEES FOR EXISTING BUILDINGS (Tabled at the February 10, 2009 Commission meeting by Commissioner Clotey)
- b.** Resolution 2009-06: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT CONCERNING PENDING AMENDMENTS TO CHAPTER 30 OF THE CODE OF ORDINANCES

**14. QUASI JUDICIAL PUBLIC HEARINGS**

- a.** An application submitted by Frank Trepepe, the property owners' representative of

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232 Commercial Blvd. The applicant is requesting a variance to allow an encroachment of fire escape stairs and protection required by the Fire Marshal within the rear setback - Board of Adjustment recommended approval with conditions - Tabled at the January 13, 2009 Commission Meeting By Commissioner Silverstone

**15. OLD BUSINESS**

- a. Discussion and/or action regarding Town sign at Commercial Blvd and A1A (Vice Mayor McIntee) (Tabled at the January 28, 2009 Commission meeting by Vice Mayor McIntee)
- b. Discussion and/or action regarding information from Mr. Terri Arthur regarding Green Fest (Requested by Vice Mayor McIntee at the February 10, 2009 Commission meeting)
- c. Discussion and/or action concerning adoption of the Miami - Dade code of ethics ordinance (Commissioner Dodd)

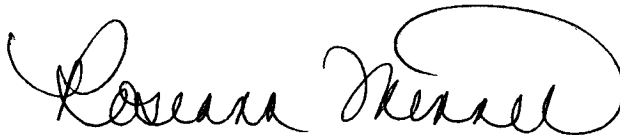
**16. NEW BUSINESS**

- a. Discussion and/or action clarifying and revising Ordinance 2003-509 which only addresses resident and employee "Permits in Posted Areas" (Commissioner Silverstone)
- b. Discussion and/or action concerning placing signs directing traffic to the hospitality and business districts on El Mar and Commercial. Can nice unobtrusive signs be placed on medians next to welcome signs, in front of Chamber, and on the pier sign? We need to request help from FDOT but should also consider placing our own signs if possible (Commissioner Clotney)

**17. TOWN ATTORNEY REPORT**

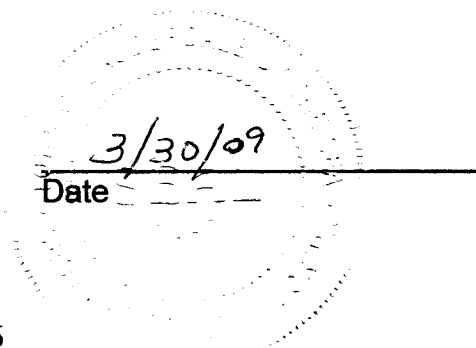
**18. FUTURE AGENDA ITEMS**

**19. ADJOURNMENT**



Mayor Roseann Minnet

ATTEST:

  
Town Clerk, June White



# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **TOWN COMMISSION**

**Continued from February 24, 2009**

### **MINUTES**

**Town Commission Meeting Room**

**4501 Ocean Drive**

**Wednesday, February 25, 2009**

**2:00 P.M.**

#### **1. CALL TO ORDER, MAYOR ROSEANN MINNET**

Mayor Roseann Minnet called the meeting to order at 2:05 p.m. Vice Mayor Jerry McIntee, Commissioner Jim Silverstone, Commissioner Stuart Dodd, and Commissioner Birute Ann Clotey were present. Also present were Town Attorney Daniel L. Abbott, Town Manager Esther Colon, Town Clerk June White.

#### **2. PLEDGE OF ALLEGIANCE TO THE FLAG**

#### **11. COMMISSIONER COMMENTS**

Mayor Minnet thanked everyone for attending the Commission meetings. She announced that Governor Charlie Crist stated that he was against the Calypso project when he visited the Town of Lauderdale-By-The-Sea. She inquired as to when the next conference roundtable would occur and would like to see the roundtable planned 6 months in advance. Mayor Minnet was disappointed that the rider ship on the Pelican Hopper did not meet the requirements. She thanked the law firm of Weiss Serota for their seminar. Mayor Minnet assured the people that the beach parking area would be addressed as many people spoke on that issue at the previous meeting.

Commissioner Clotey received information from Marc Furth regarding the Minto project. She said Minto had taken out some crossovers and indicated that they would re-do it. Manager Colon said she spoke with Mr. Furth and Minto and was waiting for their agreement in writing so that she could bring it before the Commission in March. Commissioner Clotey referred to comments Mr. Pointu made at the previous meeting and hoped that Vice Mayor McIntee would address those comments. Commissioner Clotey was concerned that Mr. Vincent Ragusa of the Community Performing Arts Center, Inc., had stopped the events for the Town and that the lady that came to take his place did not work out as Jarvis Hall could not be committed for that length of time. Commissioner Clotey talked about a brass group that would perform at the ribbon cutting ceremony for the Commercial Boulevard Beach Pavilion. She said various concerts were promised with a mixture of music and she was looking forward to it

coming before the Commission. Commissioner Clotley asked other cultural groups to come forward.

Assistant Town Manager Olinzock stated that the Commission would have to decide the length of time for the venue, the time of day, what week day and the day of the grand opening.

Commissioner Silverstone said that a resident, Debra Warner was the Director of Development for the Florida Youth Orchestra. He thought it would be a nice cultural improvement for the Beach Pavilion, possibly for the grand opening or somewhere down the road. He asked Assistant Town Manager Olinzock to contact her. Commissioner Silverstone said promises were made that should not have been made and caused problems with the residents. He said Commissioner Dodd stated that the Commission ran the Town. He found that troublesome. He said the Commission served the people of the Town and although the Commission directed the Town Manager, it was the Town Manager who ran the Town. He emphasized that the Commission needed to allow the Town Manager and the staff do their job.

Commissioner Dodd said the Commission represented the people and he had issues with the RFP for waste management. He thought all RFP's should come before the Commission for review and/or to make changes. Manager Colon said it was on the January agenda, tabled by Commissioner Dodd and Mayor Minnet made changes that were incorporated. Commissioner Dodd talked about AMR and the response to a call that contained 1 ambulance and 1 fire truck. He was disappointed that the Commission was not getting a comparison / parallel with other municipalities that used a volunteer fire department with the number of paramedics and vehicles that responded to calls. Commissioner Dodd stated that the Beach Pavilion construction plan before him was the first time he had ever seen the plan. He felt he should have received copies of them previously. Commissioner Dodd stated that the plans did not show the revised electrical that was being requested. He felt decisions should not be made at the 11th hour; the plan did not call for the 50 amps that were needed to run in the Pavilion.

Vice Mayor McIntee said it was not the staff's fault. He said Commissioner Clotley generated the work in good faith when she realized more outlets were needed. Vice Mayor McIntee was upset with an email he received that accused the fire department as being ambulance chasers. Vice Mayor McIntee stated that Commissioner Dodd left a message that said the VFD acted "stupid". Vice Mayor McIntee said that Mr. Pointu had been gone for 6 months and suggested that Commissioner Clotley talk with Mr. Pointu regarding his comments. Vice Mayor McIntee stated that Town staff was in a crisis as there was an overwhelming request for information. He explained that when a Commissioner sent an email request for information all work had to stop to comply with the request. Vice Mayor McIntee said the VFD had received a request and spent 37 hours of their time researching and the question that began the research was never asked. He said that Commissioner Dodd could just ask for his information and it would be given. Vice Mayor McIntee said work production was suffering and people were talking about quitting. He said Town staff could not be driven like a herd of cattle and

suggested that perhaps someone should be hired to assist; it may be worth paying for. Vice Mayor McIntee talked about how the Commission decided that if someone signed in for someone else and that person came to speak they had a right to speak. He stated that the Commission would not allow Ms. McIntee to respond to a comment made against her. He was disappointed in that decision.

**13. RESOLUTION - "Public Comments"**

- a. Resolution 2009-04: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA AMENDING FIRE RESCUE AND SAFETY SERVICE FEES BY DECREASING BY 10% THE PERIODIC/ANNUAL FIRE SAFETY INSPECTION FEES FOR EXISTING BUILDINGS (Tabled at the February 10, 2009 Commission meeting by Commissioner Clotey)**

Attorney Abbott read Resolution 2009-04 by title.

Mayor Minnet opened the meeting for public comments.

Barbara Cole said the VFD should excuse themselves from any Town sponsored events. She wondered whether the fire inspections should be done during off season.

With no one else wishing to speak, Mayor Minnet closed the public comment portion of the meeting.

Commissioner Dodd wanted the wording "left to discretion" removed. He believed that if VFD wanted to waive it that was fine but he wanted it changed to "at cost" or "waived if they so wished".

Manager Colon agreed with removing the word "discretion" and if the VFD chose to "waive it" it would be in the best interest of the Town. She added that Chief Perkins had indicated that the VFD would go along with a \$50 flat fee.

Vice Mayor McIntee made a motion to accept Resolution 2009-04 with a flat fee of \$50 on the recommendation of Chief Perkins.

Commissioner Dodd agreed with Manager Colon that if services were provided by an outside contract, there should be wording that the fees were relevant to an outside contract. He added that the Lauderdale-By-The-Sea fire department should not be used if there was an outside contractor and there should be a clause at the bottom that stated that the Lauderdale-By-The-Sea VFD agreed to provide the services for a nominal fee of \$50. Commissioner Dodd also wanted the removal of the word "discretion".

Attorney Abbott stated that the fire department felt that they should be on scene for public safety reasons. He said that if the discretionary language was removed he

was not sure who would impose a live fire watch in the event one was called for.

Vice Mayor McIntee explained that if there was such a situation the Town could call any fire department and ask if they had anyone that wanted to work it. Attorney Abbott understood but was concerned that if the language was eliminated who would declare the fire watch. Vice Mayor McIntee said it would be the Fire Marshall. Attorney Abbott asked for confirmation that instead of the wording "at the discretion of the Lauderdale-By-The-Sea Fire Rescue" he should state "at the discretion of the Fire Marshall of Lauderdale-By-The-Sea".

Vice Mayor McIntee clarified his motion was to adopt Resolution 2009-04 with changes to keep in tact the minimum costs for fire prevention at special events as outlined and add an additional clause that if the VFD handled the events their total charge would be \$50 per event. Commissioner Dodd added the word "discretion" would be removed and it would become the Fire Marshall. The motion carried 5-0.

- b. Resolution 2009-06: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA PROVIDING FOR ISSUANCE OF A NOTICE OF INTENT CONCERNING PENDING AMENDMENTS TO CHAPTER 30 OF THE CODE OF ORDINANCES

Attorney Abbott read Resolution 2009-06 by title.

Mayor Minnet opened the meeting for public comments. With no one wishing to speak, Mayor Minnet closed the meeting to public comments.

Attorney Abbott explained that the Notice of Intent was to let property owners and potential developers know that the Town was considering changing the development regulations within the Town. He explained further that a Public Hearing would be scheduled for the next Commission meeting, March 10, 2009, where people would express their opinions.

Attorney Abbott advised that when the zoning regulations were about to be changed, a.k.a. Zoning in Process", it kept people from trying to "scoot in under the wire". He explained further that if the governing body was in the process of amending their code, a.k.a. "Zoning in Process" a developer would not only have to comply with the existing code but also with the prospective change in the code.

Commissioner Silverstone made a motion to adopt Resolution 2009-06. Vice Mayor McIntee seconded the motion. Commissioner Dodd wanted to know when they would get the conceptual changes. Attorney Abbott advised that an estimated time frame was at the bottom of Exhibit "A" in the agenda packet. The motion carried 5-0.

#### **14. QUASI JUDICIAL PUBLIC HEARINGS**

- a. An application submitted by Frank Trepepe, the property owners' representative of

232 Commercial Blvd. The applicant is requesting a variance to allow an encroachment of fire escape stairs and protection required by the Fire Marshal within the rear setback - Board of Adjustment recommended approval with conditions - Tabled at the January 13, 2009 Commission Meeting By Commissioner Silverstone

Attorney Abbott explained that the applicant was seeking a variance to allow an encroachment of fire escape stairs and protection required by the Fire Marshal within the rear setback. Attorney Abbott swore in those wishing to give testimony.

Frank Trepepe explained that he met with the Fire Marshal and Building Inspectors and asked for the variance to the way it had been approved. He believed that was the best way to go without spending a lot more money.

Vice Mayor McIntee asked whether Mr. Trepepe had all his questions answered. Mr. Trepepe said he did.

Vice Mayor McIntee asked for staff recommendation. Assistant Town Manager Olinzock recommended approval. He had no questions for Mr. Trepepe.

Commissioner Dodd asked whether Mr. Trepepe knew why it took so long to meet with Town staff. Mr. Trepepe said there were misunderstandings as to how the last meeting ended and what the next procedure was. Commissioner Dodd asked Mr. Trepepe whether he chose to go with the fire escape off the stairway. Mr. Trepepe said he did.

There were no more questions from the Commission for Mr. Trepepe. Attorney Abbott opened the meeting for questions to the public. There were none. There were no other comments.

Attorney Abbott concluded the hearing.

Commissioner Silverstone requested the hearing be re-opened for additional questioning. Without objection Attorney Abbott re-opened the hearing. Commissioner Silverstone asked whether the delay was caused by the Town. Mr. Trepepe said it was not the Town's fault but believed there should be a way to work within Town Code when all options were exhausted.

Commissioner Dodd made a motion to approve the application with the Board of Adjustment's conditions attached. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

## **15. OLD BUSINESS**

- a. Discussion and/or action regarding Town sign at Commercial Blvd and A1A (Vice Mayor McIntee) (Tabled at the January 28, 2009 Commission meeting by Vice Mayor McIntee)**

Vice Mayor McIntee said he was under the impression that the sign was historical and after some research it was determined that it was not. Vice Mayor McIntee believed that both sides of the sign should be shared with the other businesses in the area with the front of the sign remaining as "Fishing Pier".

Commissioner Clotey intended to put a sign directly under the sign that was there currently with a direction sign toward other restaurants and, for a minimum amount, she believed something could be designed to fit in that space. Vice Mayor McIntee agreed.

Commissioner Dodd was disappointed since the sign had been around since 1964 and he did not want to change it. He felt it should be renovated and preserved as it was unique. Commissioner Silverstone believed the idea was to add to the sign and not remove it.

Louis Marchelos believed the sign was a landmark for the Town and had been in that location for 46 years.

Spiro Marchelos believed the sign had been recognized as a landmark by previous Commissions and should not be changed or removed.

Barbara Cole believed it would be a shame to remove the fishing pier sign. She believed it should be left alone as it was displayed on many web sites.

Bob Fleishman said he lived in the Town for 20 years and liked the way the sign was presented. He believed it should not be touched as it was important to the Town.

Ron Piersante believed the sign should be left alone.

Commissioner Clotey said the plastic on the sign had to be replaced. She said there were a lot of businesses in the Town and thought there should be one sign for all the businesses. Commissioner Clotey suggested a directional arrow at the bottom of the fishing pier sign. She said there were more than 4 restaurants that made up the town. Commissioner Clotey stated that it was too late to put the item on the current agenda and placed it for the March 10, 2009 Commission meeting.

Vice Mayor McIntee said that he and Commissioner Silverstone pushed to get the power back to the Pier sign. He stated that since the sign was lit he noticed the plastic covering needed repair. Vice Mayor McIntee suggested adding other businesses to the sign and leave the front of the sign for the fishing pier.

Mayor Minnet looked forward to Commissioner Clotey's agenda item for the next meeting.

Commissioner Silverstone stated that the sign sat on Town Property and therefore the Town owned the sign. Assistant Town Manager Olinzock said the sign was on Town

property but had no paperwork showing who put the sign there. Commissioner Silverstone wanted to know who was responsible for repairing it. Manager Colon said when the Commission wanted to spend \$7,000 the Town could not find a Bill of Sale for that sign. Commissioner Silverstone wanted to know what obligation the Town had to do anything to the sign. He felt the Chamber and/or the business owners should take care of the sign and should address the issues.

Commissioner Dodd made a motion to table to a later date to allow time to discuss the issues. He removed the table for Vice Mayor McIntee to speak. Vice Mayor McIntee wanted to know whether something on Town property that was abandoned went to the Town. Attorney Abbott stated that there was a Florida Statute that required preservation of the property for a certain period of time to allow the owner to claim it and remove it from the public property. Vice Mayor McIntee inquired as to how the Town would establish the owner of the sign. Attorney Abbott stated that he could establish the property owner through a title search, but to determine who the actual owner of the sign was may require an actual bill of sale.

Attorney Abbott explained further that expenditure of public monies had to be for the public benefit and not a private benefit; to change the sign the Town would have to establish ownership. Vice Mayor McIntee inquired as to how the Town could move forward. Attorney Abbott replied that there was a law called Adverse Possessions that was similar to Squatters' Rights. He added that if no one could prove original ownership to the sign the matter may be resolved to who had been exercising ownership type control of the sign. Attorney Abbott said a Quiet Title Action would have to be filed to assert ownership to it.

Vice Mayor McIntee made a motion to file a Quiet Title Action to determine whether the sign belonged to the Town. Commissioner Dodd suggested the Commission decide whether they want to change the sign. He believed the owners of Fisherman's Pier would agree to funding a "spruce up" in order to preserve the sign as a piece of history to the Town.

Commissioner Clotey seconded the motion. The motion carried 3-2. Commissioner Dodd and Mayor Minnet voted no.

- b. Discussion and/or action regarding information from Mr. Terri Arthur regarding Green Fest (Requested by Vice Mayor McIntee at the February 10, 2009 Commission meeting)**

Vice Mayor McIntee said he was looking for canceled checks and bank statements.

Attorney Abbott said Mr. Arthur phoned him and stated that all checks and statements had been provided. He said Mr. Arthur indicated that expenditures went to things like banners, yard signs and poster and the remaining funds were relayed to the Town by a cashiers check. Mr. Arthur said a clear history would not be available as he would

purchase items from vendors with his own money and reimburse himself with the donated funds.

Attorney Abbott stated that Mr. Arthur indicated that actual monthly statements were not found.

Mayor Minnet had turned over the checks that she had received from the bank with endorsements on the back to Clerk White.

Vice Mayor McIntee made a motion to table to the March 10, 2009 Commission meeting to allow time for Mr. Arthur to obtain the bank statements.

Vice Mayor McIntee asked whether there were any outstanding invoices. Manager Colon said an invoice was not paid and she had instructed the vendor to contact Mr. Arthur as was directed by Mayor Minnet.

Commissioner Clotey seconded the motion. The motion carried 5-0.

**c. Discussion and/or action concerning adoption of the Miami - Dade code of ethics ordinance (Commissioner Dodd)**

Commissioner Dodd stated this Ordinance was not a personal attack. He wanted to address the voting conflict only. Commissioner Dodd was willing to put it to referendum and was willing to withdraw his requested addition for "members of a public service organization" in favor of "employee paid and/or unpaid of a vendor or contractor". He asked for Commission support to go forward with an Ordinance as the first step to bring to referendum.

Commissioner Silverstone stated that Commissioner Yanni was cleared from the Ethics Committee as there was no conflict. He said if he had taken himself off the fire department it would not change the way he voted. Commissioner Silverstone said it was important to motivate as many people as possible and not have restrictions except if a conflict existed. He said there were state laws and county laws that addressed that issue. Commissioner Silverstone said that if the people wanted to vote for it he would not stand in their way.

Commissioner Clotey would not support anything like this unless there was a reason such as the Commission profiting from doing business with the people and business owners of the Town.

Vice Mayor McIntee believed this was directed at him and Commissioner Silverstone. He stated that all complaints had been cleared including the recent complaint from Marc Brown. Vice Mayor McIntee said that when John Yanni produced a similar letter from the Ethics Committee he backed off. He stated that an employee had to be paid according to the State of Florida.



Mayor Minnet said she had a business with clients and wanted to know how this proposed Ordinance would be interpreted should someone come to her for her services. Attorney Abbott explained that the general State regulation on voting conflicts was that the Commission should not vote on an item that might financially benefit them, such as voting in favor of an item to obtain a client. He added that the Commissioner would have to abstain from voting on that item.

Attorney Abbott explained that the reason there was no conflict of interest regarding Commissioner Silverstone and Vice Mayor McIntee was there was no financial gain based upon any VFD item that came before the Commission because they were not paid by that entity. Attorney Abbott stated for the record that the State had made clear that no one on the Commission was doing anything unethical. He indicated that the voter could amend the Charter to say they deemed it be a voting conflict even if the Commissioner was a non-paid member of a vendor offering to do business with the Town.

Mayor Minnet expressed concern that if interpreted that someone was doing business in Town, just because their business was located in Town, that they may profit from it. She believed that was a fine line. Attorney Abbott said the motion would have to be clear and the preparation of the Ordinance would have to be specific.

Commissioner Dodd said the Ordinance was not camouflaged and it worked for Miami-Dade. He added that he was not trying to remove either Vice Mayor McIntee or Commissioner Silverstone from the fire department or the dais. Commissioner Dodd explained that he wanted to raise the level of ethics to prevent them from voting on those particular issues whether or not the State put them in the clear. He believed it was a moral standing.

Vice Mayor McIntee stated there were 3 potential referendums for the May 13, 2009 workshop and Commissioner Dodd wanted to put the Ordinance on the agenda now.

Vice Mayor McIntee pointed out that when an item came before the Commission they had to vote. Attorney Abbott agreed unless there was a conflict of interest. Vice Mayor McIntee believed that contradicted the Miami-Dade Ethics Code. Vice Mayor McIntee also believed Commissioner Clotey indicated that the perception was that a Commissioner could get a job just because they were the Commissioner. He used Commissioner Dodd, who fixed boats as an example; are the people letting him fix their boats because he was a Commissioner and/or Mayor Minnet who might sell lights to a high rise; would she sell them because she was the Mayor. He explained that Commissioner Dodd's Ordinance would prevent both the Mayor and a Commissioner from doing any business in Town.

Commissioner Silverstone did not believe it was wise to do that in a small town.

Commissioner Dodd withdrew the item to reconsider it at a later date.

- d. Discussion and/or action regarding Valet Parking for 101 Ocean and Village Grill (Vice Mayor McIntee) Tabled at the February 10, 2009 Commission meeting by Commissioner Dodd - Added at the February 24, 2009 Commission meeting

Mayor Minnet said this item was added at the February 24, 2009 Commission meeting. There was confusion as to whether the item had been tabled at that time. Commissioner Dodd made a motion to table to the March 10, 2009 Commission meeting just in case it was not tabled at the February 24, 2009 Commission meeting. Commissioner Silverstone seconded the motion. The motion carried 5-0.

## **16. NEW BUSINESS**

- a. Discussion and/or action clarifying and revising Ordinance 2003-509 which only addresses resident and employee "Permits in Posted Areas" (Commissioner Silverstone)

Commissioner Silverstone thought that by passing the Resolution at the last meeting, the Commission was in error. He did not believe they could change an Ordinance by Resolution. Attorney Abbott agreed. Commissioner Silverstone intended to keep the Resolution and to keep the language of the Ordinance the way it was. Attorney Abbott advised the options were to rescind the Resolution and/or amend the Ordinance and adopt it on 1<sup>st</sup> reading. Commissioner Silverstone made a motion to rescind. Vice Mayor McIntee seconded the motion. Mayor Minnet asked whether a vote was needed to rescind. Attorney Abbott said it would but it was a debatable motion and he was not sure if everyone was heard.

Vice Mayor McIntee said that the people wanted 2 types of permits; one for all the meters and one for beach parking. Assistant Town Manager Olinzock clarified that there was no category called "beach parking". He said the category was "residential permit parking only". Assistant Town Manager Olinzock indicated that people wanted designated spaces.

Commissioner Clotey feared that people would pay a \$25 fine to park by the beach. She suggested appropriate signs be placed.

Mayor Minnet said she had recommended increasing the beach parking to \$25 and staff recommended designating 15 residential spots for beach parking only. She added that the Commission eliminated beach parking. Mayor Minnet felt that designated beach parking spots were needed. Commissioner Clotey felt beach parking was prime parking and should be charged accordingly. Mayor Minnet felt it was important to get the 15 spots back.

Commissioner Dodd made a motion to charge \$50. Mayor Minnet did not believe they could make a change to the Resolution as it had already passed. Attorney Abbott said they could amend the Resolution as long as it was consistent with the Ordinance.

Manager Colon believed the Commission needed to do some work with the Ordinance since the existing Ordinance did not include everything the Commission wanted to do. Attorney Abbott agreed that the Parking Ordinance was not drafted appropriately to begin with and a re-write was needed.

Commissioner Silverstone recommended review at the next Commission meeting. Brief discussion followed. Assistant Town Manager Olinzock stated that the current residential parking permits that were sold were still valid.

Vice Mayor McIntee suggested taking 6 spaces from the parking lot to receive additional funding. Assistant Town Manager Olinzock clarified that 6 brand new spaces adjacent to El Prado Park would become residential spaces and 5 spaces would remain in the parking lot. Commissioner Clotey wanted to know who could park there at night time. Assistant Town Manager Olinzock said only those with a permit on their vehicle could park in the permitted spaces. Commissioner Clotey believed a high permit fee should be charged for prime parking to park by the beach and near the restaurants.

Commissioner Dodd motioned a new category for the 15 spaces as beach parking as an additional permit with a fee of \$50. He said that in order to park town wide a person would need 2 permits. Commissioner Dodd pointed out that if only the residential permit was purchased it could not be used to park in the beach parking spaces. Commissioner Clotey wanted to know whether the spaces could be available to all people in the evening. Commissioner Dodd said the people wanted their beach parking.

Vice Mayor McIntee made a motion to direct the Town Attorney to make the changes as suggested by Commissioner Dodd and prepare them for the March 24, 2009 Commission meeting. Commissioner Silverstone seconded the motion. The motion carried 5-0.

#### **17. TOWN ATTORNEY REPORT**

Attorney Abbott announced that his time as Town Attorney had come to an end. He was continuing with his litigation practice. Attorney Abbott said Susan Trevarthen would sit in his place in future meetings. He added that Attorney Trevarthen was a board certified expert in municipal law and also had the law firm's planning practice.

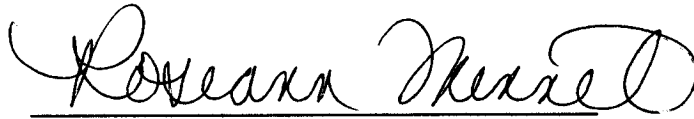
Attorney Abbott believed the Town of Lauderdale-By-The-Sea was a beautiful place and a vibrant government.

#### **18. FUTURE AGENDA ITEMS**

#### **19. ADJOURNMENT**

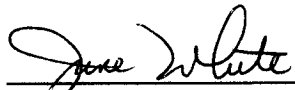
Town Commission Regular Meeting Minutes  
February 25, 2009 continued from February 24, 2009

Vice Mayor McIntee made a motion to adjourn. With no further business before the Commission, Mayor Minnet adjourned the meeting at 4:30 p.m.



Mayor Roseann Minnet

ATTEST:



Town Clerk, June White

3/30/09

Date

